



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: NISHIDA=3A

In re Application of:

Yoshihiro NISHIDA et al.

Appln. No.: 09/924,099

Filed: August 8, 2001

For: PEPTIDE

) Art Unit: 1646

) Examiner: D. Jiang

) Washington, D.C.

) January 7, 2003

RESPONSE

Honorable Commissioner of Patents
Washington, D.C. 20231

Sir :

The Office Action of December 17, 2002, primarily in the nature of a restriction requirement, has been carefully reviewed. Restriction has been required between what the PTO deems to be three patentably distinct inventions, namely:

Group I, drawn to an artificially produced peptide neutralizing IL-18, a composition thereof, a DNA encoding the peptide, and a method of producing the peptide and presently comprising claims 1-11, 14, 15, 18-34, 37-41 and 43;

Group II, drawn to a method to treat a living body with the peptide and presently comprising claims 12, 13, 16, 17, 35 and 36; and

Group III, drawn to a method of neutralizing or inhibiting IL-18 with the peptide and presently comprising claims 42 and 44.

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Confirmation No.: 3370

Applicants hereby respectfully and provisionally elect with traverse Group II, drawn to a method of treating a living body with the peptide and presently comprising claims 12, 13, 16, 17, 35 and 36 for examination on the merits.

The requirement is respectfully traversed on the basis of the second paragraph of MPEP §803 which requires that there be a "serious burden" in order to make a restriction requirement, even if the requirement is otherwise correct. Applicants believe that examination of a product and two methods of use do not constitute a "serious burden". Accordingly, withdrawal of the restriction requirement is respectfully requested.

Favorable consideration and examination of all the claims on the merits are respectfully solicited.

Respectfully submitted,

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